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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/667,043

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EXAMINER

NGUYEN, HUONG Q

ART UNIT

PAPER NUMBER

3736

MAIL DATE

DELIVERY MODE

10/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/667,043	Applicant(s) ESKURI, ALAN	
	Examiner HELEN NGUYEN	Art Unit 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11, 13-16, 19, 22-24, 26 and 30 is/are pending in the application.
- 4a) Of the above claim(s) 5-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8, 9, 11, 13-16, 19, 22-24, 26 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive to the amendment filed 7/10/2008. Claims 1, 13, and 22 are amended overcoming the previous claim objections. Claim 25 is cancelled. Claims 5-7 remain withdrawn. **Claims 1-4, 8- 9, 11, 13-16, 19, 22-24, 26, and 30** remain under prosecution.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1 and 11** are rejected under 35 U.S.C. 102(b) as being anticipated by Arenas (US Pat No. 5640970).

4. In regards to **Claim 1**, Arenas discloses a guide wire comprising:

an elongated inner core member 22 including a proximal section 32 and a distal section 24, the distal section including a proximal portion and a distal portion, best seen in Figure 2;

an elongated reinforcing member 41, 42 having a proximal end and a distal end, the elongated reinforcing member disposed about the proximal portion of the distal section such that the distal portion of the distal section is free of the reinforcing member, best seen in Figure 2-3;

an outer coil member 28 having a proximal end and a distal end, the outer coil member disposed about the distal section of the core member, there being no intervening layer of material

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between the distal portion of the distal section of the inner core member and the outer coil member, best seen in Figure 2-3;

the outer coil member is located exterior of the elongated reinforcing member such that there exists an unoccupied space between the entire perimeter of the elongated reinforcing member and the outer coil member, best seen in Figure 2-3;

wherein the proximal end of the outer coil member is located proximal of the proximal end of the elongated reinforcing member, best seen in Figure 2.

5. In regards to **Claim 11**, Arenas discloses the coil 28 comprises stainless steel (Col.4: 2-3).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 2-4** are rejected under 35 U.S.C. 103(a) as being unpatentable over Arenas in view of O'Connor et al (US Pat No. 6887235).

8. Arenas discloses the invention above but does not expressly disclose that the reinforcing member is a tube having at least one cut or groove or is made of a nickel-titanium alloy.

O'Connor teaches a reinforcing member with a helical groove (40 in figure 3A) or a plurality of cuts (44, 46 in figure 4A) for the purpose of providing desired torque and flexibility

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characteristics to the reinforcing member without requiring additional components (column 2, lines 23-26). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to have used a nickel-titanium alloy tube having at least one helical groove as taught by O'Connor as a reinforcing member in Arenas in order to provide a reinforcing member with desired torque and flexibility characteristics without requiring additional components.

9. **Claims 8-9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Arenas in view of Palermo et al (US Pat No. 5769796).

10. In regards to **Claim 8**, Arenas discloses the invention above but does not explicitly disclose the distal portion of the distal section of the core member has a non-circular cross section. Palermo et al teach an analogous guide wire with a distal portion of the distal section of the core member having a non-circular cross-section (column 6, lines 63-67) as an effective construction of the distal portion. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the distal portion of the core member of Arenas to have a non-circular cross section as taught by Palermo et al as an effective configuration for the guide wire with maintained the characteristic desired for its use.

11. In regards to **Claim 9**, Arenas discloses the invention above but does not explicitly disclose the core member comprises stainless steel. Palermo et al teach an analogous guide wire with a core member comprising stainless steel as an effective material for its construction (Col.7: 14-18). Therefore, it would have been obvious to one of ordinary skill in the art at the time the

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invention was made to make the core member of Arenas out of stainless steel as taught by Palermo et al as an effective material for the construction of guide wires having the desired characteristics for its use.

12. **Claims 13-16, 19, 22-24, 26, and 30** are rejected under 35 U.S.C. 103(a) as being unpatentable over Vrba et al (US Pub No. 20040122340) in view of O'Connor et al.

13. In regards to **Claims 13 and 19**, Vrba et al disclose a guide wire comprising:

an elongated inner core member 12, 412, the core member having a proximal region and a distal region 416, 434 with at least a portion of the distal region including stainless steel (¶0019, 0036), the distal region having a proximal section and a distal section, best seen in Figure 1 and 5;

an elongated tubular reinforcing member 440 disposed about the inner core member, the reinforcing member having a proximal end and a distal end, best seen in Figure 5, wherein the distal end terminates proximal of the distal section of the distal region of the core member, best seen in Figure 5;

an outer coil member 420 having a proximal end and a distal end, the outer coil member disposed over the distal section of the core member and at least a portion of the reinforcing member, best seen in Figure 5;

the outer coil member located exterior of the elongated reinforcing member such that there exists an unoccupied space between the entire perimeter of the elongated reinforcing member and the outer coil member, best seen in Figure 5;

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wherein the proximal end of the outer coil member is located proximal of the proximal end of the reinforcing member, best seen in Figure 5.

14. However, Vrba et al do not explicitly disclose the elongated tubular reinforcing member made of a nickel-titanium alloy and having at least one cut or groove. O'Connor teaches a reinforcing member with a helical groove (40 in figure 3A) or a plurality of cuts (44, 46 in figure 4A) for the purpose of providing desired torque and flexibility characteristics to the reinforcing member without requiring additional components (column 2, lines 23-26). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to have used a nickel-titanium alloy tube having at least one helical groove as taught by O'Connor as the reinforcing member in Vrba et al in order to provide a reinforcing member with desired torque and flexibility characteristics without requiring additional components while still performing its desired function.

15. In regards to **Claims 14 and 23**, Vrba et al disclose the distal region 416, 434 of the core member 12, 412 is stainless steel (¶0019, 0036).

16. In regards to **Claim 16**, Vrba et al disclose the outer coil member 420 comprises stainless steel (¶0027).

17. In regard to **Claims 15, 22, 26, and 30**, Vrba et al disclose a guide wire comprising:
an elongated inner core member 12, 412 including stainless steel (¶0019, 0036), the inner core member including a proximal portion having a first cross-sectional area, an intermediate

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portion 432, 416 having a second cross-sectional area, wherein the second cross-sectional area is less than the first cross-sectional area, and a distal portion 434 having a ribbon profile, best seen in Figure 1 and 5;

an elongated tubular member 440, the tubular member having a proximal end and a distal end, the tubular member being disposed about the intermediate portion of the inner core member, best seen in Figure 5;

a coil tip 420 including stainless steel (¶0027), the coil tip having a proximal end and a distal end, the coil tip extending over the distal portion of the inner core member and the tubular member, best seen in Figure 5;

the coil tip has an outside diameter, wherein the outside diameter of the coil tip is substantially equal to the diameter of the proximal portion of the core member configured to create a smooth transition from the core member to the coil tip, best seen in Figure 1.

18. However, Vrba et al do not explicitly disclose the elongated tubular member made of a nickel-titanium alloy and having at least one cut or groove. O'Connor teaches a reinforcing member with a helical groove (40 in figure 3A) or a plurality of cuts (44, 46 in figure 4A) for the purpose of providing desired torque and flexibility characteristics to the reinforcing member without requiring additional components (column 2, lines 23-26). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to have used a nickel-titanium alloy tube having at least one helical groove as taught by O'Connor as the tubular member in Vrba et al in order to provide a reinforcing member with desired torque and flexibility characteristics without requiring additional components while still performing its desired function.

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19. In regards to **Claim 24**, Vrba et al disclose the proximal portion of the core member 12, 412 has a diameter and the intermediate portion 432 has a diameter less than the diameter of the proximal portion, best seen in Figure 5.

Response to Arguments

20. Applicant's arguments with respect to claims 1-4, 8-9, 11, 13-16, 19, 22-24, 26, and 30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELEN NGUYEN whose telephone number is (571)272-8340.

The examiner can normally be reached on Monday - Friday, 9 am - 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. N./

Examiner, Art Unit 3736

/Max Hindenburg/

Supervisory Patent Examiner, Art Unit 3736